IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

LA.App..No. 1063 of 2000(A)

LAR.22/1994 of SUB COURT, PALA
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APPELLANT/CLAIMANT

JANE MARY
MOTHER SUPERIOR , CARMALITE CONVENT
MUTHOLY, PULIYANNOOR VILLAGE,
MEENACHIL TALUK .

BY ADV. SRI.JAMES KURIAN

RESPONDENTS/RESPONDENTS
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1. STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR,
KOTTAYAM.

2. THE ASSISTANT ENGINEER
PUBLIC HEALTH SECTION
WATER AUTHORITY, PALA.

BY GOVERNMENT PLEADER SMT. LATHA THNAKAPPAN

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A No. 1063 of 2000

Dated this the 14th day of November 2007

JUDGMENT

Harun-Ul-Rashid,J

This appeal is filed by the claimant, which arise out of the judgment and decree dated 20.12.1999 in L.A.R. No. 22/1994 on the file of the Sub court,Pala.

2. An extent of 25.60 ares of land in Survey Numbers 476/1 and 399/1 of Puliyannoor village was acquired for the purpose of construction of a filter plant for water supply scheme at Puliyannoor. Section 4(1) notification is dated 16-3-1992. The acquired land was taken possession on 1-8-1986. The Land Acquisition Officer fixed the land value at the rate of Rs.13,585/- per are as against the claim of Rs.20,000/- per cent.

3. The claimant in support of her claim produced Exts A1 to A8 documents and examined AW1 to AW5 There was no oral evidence from the side of the respondents and no documents was also produced. The court below did not rely on Exts A6, A7 and A8 sale deeds. The court below did not grant any enhancement of compensation on the basis of the documents produced; but awarded Rs. 415/- per are as additional compensation stating that some amount of guess work is necessary. The

court below then fixed land value at the rate of Rs.14,000/- per are; granting a nominal increase in the land value.

4. The acquired land is situated in Puliyannoor village which is the adjacent village of Pala municipal town. The acquired land is facing public road. From the oral evidence adduced by AWs 1 to 3 , it can be seen that the acquired property has locational importance and commercial value and Ext.A6 property is lying at a distance of 165 meters away from the acquired property. .The transaction of Ext.A6 property is of the year 1986 and at that time the land value was Rs.9,000/- per cent. The property belonging to the claimant was acquired in the year 1992 i.e approximately 6 years later. It has also come out in evidence that Ext.A6 land and the acquired land are similarly situated.

5. Another document produced by the claimant is Ext. A7 sale deed dated 3-11-1992 in which the extent of land is 10.25 cents and was sold at the rate ofRs.19,500/- per cent. That property is lying 1.81 kilometers away from the acquired property. Comparing the acquired property and property covered by Ext.A7, the acquired property is lying nearer to Pala municipal town.

6. Exts.A8 sale deed and Ext.X1 transaction were rejected by the court below.

7. In Ext.A6 document the price fixed per cent is Rs.9,000/- Ext.A6 was executed in the year 1986. Going by the settled position of

the Supreme Court 15% increase per year for six years is calculated will roughly come around 17,000/- per cent. It is true that the extent of land covered by Ext.A6 is only 4.173 Cents. Ext.A7 property executed in the year 1992. The centage value is Rs. 19,500/-. Taking into consideration the value of Ext.A6 and A7 lands at the rate of 17,000/- and Rs. 19,000/- respectively and considering the fact that the property covered by Ext.A7 sale deed is lying farther away from Pala Municipal town, we are of the view that Rs. 10,000/- per cent will be adequate and fair value for the acquired land. In the circumstances we fix the land value at the rate of 10,000/- per cent.

8. In the result, the judgment and decree under appeal is modified and the land value is fixed at the rate of 10,000/-per cent. The appellant/claimant is entitled to all eligible statutory benefits including interest on solatium. This is a case where the property was taken advance possession long before Section 4(1) notification. The date shall be worked out from the date of taking advance possession to the date of award for the purpose of 23 (1A) of the Land Acquisition Act.

KURIAN JOSEPH, JUDGE

HARUN-UL-RASHID, JUDGE

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